

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6519 of 1984

Date of decision: 7-7-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BHUAROMAL V CHHANTBAR

Versus

RAJKOT MUNI. CORPN.  
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Appearance:

MR DG CHAUHAN for Petitioner

MR DM THAKKAR for Respondent No. 1  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/07/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner has challenged the order dated 24-5-84 of the Labour Court, Rajkot, passed in Recovery Application No.1061 of 1983 filed by him under section 33C(2) of the Industrial Disputes Act, 1947. By the application under section 33C(2) of the I.D.Act, 1947 the petitioner prayed before the Labour Court for computation of the benefit of cycle allowance for the period from 8-12-1977 to 31-5-1980. By the impugned order the Labour Court rejected the application on the ground that whether the petitioner is entitled for cycle allowance or not cannot be adjudicated and decided under section 33C(2) of the Act as he failed to show his entitlement for the same as flowing from any award or some statutory provision or Standing Order. So, what the Labour Court has held in the present case is that unless the entitlement of the petitioner for cycle allowance is decided in a reference, computation of the amount could not be ordered by the Labour Court under section 33C(2). I do not find any illegality in the order of the Labour Court. In fact this writ petition is wholly ill-advised.

2. Provisions of section 33C(2) of the Industrial Disputes Act, 1947 are in the nature of execution proceedings. The amount can be ordered to be computed only if the petitioner has been found entitled to get the benefit. Learned counsel for the petitioner submitted that all other employees working in the Roshni Department of the respondent Corporation are getting cycle allowance. However, the cycle allowance is indisputably given to the helpers of the said Department, and there is no dispute that the petitioner was not a helper. He was only labourer. Learned counsel for the petitioner has failed to produce any document on the record of this petition in the form of Act, Rules or Standing Orders or Resolution of the Corporation to show that the labourers of the said Department were also being given the benefit of cycle allowance.

3. In the result this special civil application is dismissed. Rule discharged. No order as to costs.

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